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EXAMINER

SMITH, CHENECA

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/822,313	<b>Applicant(s)</b> BUCHER ET AL.	
	<b>Examiner</b> CHENECA P. SMITH	<b>Art Unit</b> 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/12/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Remarks*

1. Applicants' amendment and response dated January 16, 2008, responding to the October 16, 2007 Office Action provided in the rejection of claims 1-29, wherein no claims have been amended or cancelled. Thus, claims 1-29 remain pending in this application and have been fully considered by the examiner.
2. Applicant's arguments have been fully considered but they are not persuasive. Accordingly, the rejection of the claims over the prior art in the previous office action is maintained and **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Response to Arguments*

3. Applicant's arguments filed January 16, 2008 have been fully considered but they are not persuasive.

In response to applicants' argument regarding claim 1 that "Cheng explicitly teaches away from sending information, such as definitions of hardware and software resources of a local device to a remote system" (see page 8, 2nd paragraph), applicants should note that Cheng was not relied upon for consideration of hardware resources. Instead, Brebner was cited to teach the analysis of hardware resources, which is clearly disclosed by Brebner (see [0029]). Here, applicants should note where Cheng discusses analyzing a client computer to determine which software products are installed on the computer and receiving indications of the installed software products from the client computer (see FIG.8 and associated text, e.g. col.10 lines 29-31, col.11 lines 5-7 and lines 28-31, and col. 14 lines 45-64).

In response to applicants' argument regarding claim 8 that "Cheng explicitly teaches away from transmitting information regarding a client device to a remote location" and that " the teachings of Brebner and Cheng cannot be properly combined" (see page 8, 4<sup>th</sup> paragraph), applicants' should again note where Cheng discusses analyzing a client computer to determine which software products are installed on the computer and receiving indications of the installed software products from the client computer (see FIG.8 and associated text, e.g. col.10 lines 29-31, col.11 lines 5-7 and lines 28-31, and col. 14 lines 45-64). In addition, Cheng is relied upon to teach a service available to the remote device (i.e. client computer) because a "service" could simply be providing an update to the client computer, which Cheng clearly teaches (see col.3 lines 40-45). Therefore, the teachings of Brebner and Cheng can be properly combined, as it would have been obvious to do so to provide users with an easier way to identify which

updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

In response to applicants' argument regarding claims 18 and 26 that "Cheng is silent regarding the consideration of hardware in determining the compatibility of update" and that "Cheng explicitly teaches away from transmitting information regarding a client device to a remote location" (see page 9 1<sup>st</sup>, 2<sup>nd</sup>, and 4<sup>th</sup> paragraphs), again, as noted above, applicants should note that Cheng was not relied upon for consideration of hardware resources. Instead, Brebner was cited to teach the analysis of hardware resources, which is clearly disclosed by Brebner (see [0029]). Applicants should also note, as discussed above, where Cheng discusses analyzing a client computer to determine which software products are installed on the computer and receiving indications of the installed software products from the client computer (see FIG.8 and associated text, e.g. col.10 lines 29-31, col.11 lines 5-7 and lines 28-31, and col. 14 lines 45-64). Therefore, the teachings of Brebner and Cheng can be properly combined, as it would have been obvious to do so to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

***Claim Rejections***

4. Claims 1-29 stand finally rejected, as claims 1-19 and 21-29 being unpatentable over *Brebner in view of Cheng* and claim 20 being unpatentable over *Brebner in view of Cheng and in further view of Chiles*. The claim rejections from the previous Office Action of October 16, 2007 are maintained and reapplied as follows.

5.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-19 and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brebner (EP1211596 A1) in view of Cheng (US Patent 6,151,643).

As to claim 1, Brebner teaches a method, comprising:

storing a data structure that defines hardware resources and software resources of a local device at a computer associated with the local device (see [0029], *an internal system service 12 is used or automatically gathering technical parameters regarding the user's PC and for storing them into a profile file 14*),

establishing communication with a remote service distribution system (see [0027], *the monitoring agent is also fitted with means for getting a connection to service providers on the Internet network, and particularly to one conformity server*) and

requesting a service from the remote service distribution system (see [0037], *local agent prepares a request for a transaction, which is the transmitted to monitoring server*), wherein definitions of the hardware resources and software resources of the local device from the data structure are transmitted to the remote service distribution system as part of the service request ([0037], *the request contains the details of the PC software configuration as well as the details of the PC hardware*).

Brebner does not specifically teach the service including transmission of software to the local device. In an analogous art, however, Cheng is cited to teach the service including transmission of software to the local device (see col.3 lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Brebner and Cheng in order to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

As to claim 2, Brebner also teaches the method of claim 1, wherein the computer associated with the local device comprises a network appliance that operates as a gateway to the Internet for the local device (see page 4, paragraph [0028], *a user's computer is connected to a communication network*).

As to claim 3, Cheng further teaches the method of claim 1, wherein a follow-up service associated with the software is available from the remote service distribution system at a later time than the service, the method further comprising storing

information at the computer specifying that the follow-up service is available (see column 5, lines 24-30).

As to claim 4, Cheng further teaches the method of claim 3, wherein the follow-up service comprises an upgrade of the software (see column 5, lines 18-21).

As to claim 5, Brebner in view of Cheng teaches where a follow-up service associated with the software is available from the remote service distribution system at a later time than the service, but does not specifically teach that the follow-up service comprises an extension module of the software. However, it is well known in the art that upgrades to software typically include software patches and other revisions, service packs, or new releases that will provide enhanced functionality. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that an upgrade to the software would also contain an enhancement of the software disclosed in Cheng's invention.

As to claim 6, Cheng further teaches the method of claim 1, further comprising reestablishing communication with the remote service distribution system at a later time based on the information specifying that a follow-up service is available such that the follow-up service can be provided to the local device (see column 5, lines 24-32).

As to claim 7, Cheng further teaches the method of claim 6, wherein reestablishing communication is performed automatically and without user initiation thereof (see column 20, lines 4-13).

As to claim 8, Brebner teaches a system comprising:



a network interface module configured to provide an interface to a remote device (see FIG.1, 4 and paragraph [0028], *because the client can connect to either the conformity server or the accessories server through the network (FIG.1, 2), then the accessories server must be configured to provide an interface to the client to allow the connection*), and

a resource analysis module configured to analyze hardware resources on the remote device in relation to the at least one service (see page 5, paragraph [0038]).

Brebner does not specifically teach at least one service available to the remote device. In an analogous art however, Cheng is cited to teach at least one service available to the remote device (see col.3 lines 40-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Brebner and Cheng in order to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

As to claim 9, Cheng further teaches the system of claim 8, further comprising a storage device that stores software packages pertaining to the at least one service (see FIG.1, 103 and associated text, e.g. col.6 lines 31-34).

As to claim 10, Brebner teaches the system of claim 8, wherein the network interface module is an Internet interface that connects to the Internet and provides a public interface, wherein the public interface provides limited access to the system (see

Figure 1, paragraph [0028], *a user's computer is connected to a communication network such as an Internet or Intranet network for instance* and paragraph [0029]).

As to claim 11, Cheng further teaches the system of claim 8, wherein the network interface module is an Internet interface that connects to the Internet and provides a private interface, wherein the private interface provides secure access to an outlet for purposes of uploading additional software to the system (see column 6, lines 16-20 and lines 40-45).

As to claim 12, Cheng further teaches the system of claim 8, wherein the network interface module is connected to the Internet via a data connection (see column 13, lines 12-17).

As to claim 13, Cheng further teaches the system of claim 8, wherein the at least one service includes both initial services and follow-up services, wherein initial services are performed immediately upon request and follow-up services are performed at a later time (see column 5, lines 10-17 and lines 24-32).

As to claim 14, Cheng further teaches the system of claim 13, wherein the initial services include the ability to download software packages to operate on the remote device (see column 3, lines 41-45).

As to claim 15, Cheng further teaches the system of claim 13, wherein the follow-up services include automatically updating an initial service on a remote device when an update to the initial service becomes available (see column 7, lines 5-8).

As to claim 16, Brebner also teaches the system of claim 8, wherein the hardware resources are analyzed in relation to the at least one service to determine which services are compatible with the remote device (see page 5, paragraph [0038]).

As to claim 17, Cheng further teaches the system of claim 8, wherein the resource analysis module is further configured to identify software resources available on the remote device, and the software resources are analyzed in relation to the at least one service to determine which services would enhance the identified software resources (see column 7, lines 46-50).

As to claim 18, Brebner teaches a method, comprising:  
establishing a connection with a remote device (see page 4, paragraph [0027], *the monitoring agent is also fitted with means for getting a connection to service providers on the internet network, and particularly to one conformity server*) and  
identifying hardware resources on the remote device (see page 5, paragraph [0034], *hardware data is extracted from the machine*).

Brebner does not specifically teach displaying a list of available services that are compatible with the hardware resources on the remote device, receiving a request to perform at least one service including at least one initial service, and performing the at least one service. In an analogous art, however, Cheng is cited to teach displaying a list of available services that are compatible with the hardware resources on the remote device (see column 14, line 66 and column 15, lines 1-4); receiving a request to perform at least one service including at least one initial service (see column 15, line 14) and performing the at least one service Cheng (col.3 lines 40-45). It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Brebner and Cheng in order to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

As to claim 19, Cheng further teaches the method of claim 18, further comprising reestablishing a connection with the remote device and performing any requested follow-up services (see column 5, lines 24-32).

As to claim 21, Cheng further teaches the method of claim 18, wherein establishing a connection with a remote device further comprises providing a public interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the public interface (see column 3, lines 27-29).

As to claim 22, Brebner also teaches the method of claim 18, wherein identifying the hardware resources available on the remote device further comprises accessing a data structure associated with remote device defining the hardware resources available on the remote device (see page 4, paragraph [0029], *an internal system service is used for automatically gathering technical parameters regarding the user's PC and for storing them into a profile file*).

As to claim 23, Cheng further teaches the method of claim 18, wherein displaying a list of available services that are compatible with the hardware resources available on the remote device further comprises analyzing available services in relation to the

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hardware resources available on the remote device (see column 14, lines 66-67, and column 10, lines 1-4).

As to claim 24, Brebner also teaches the method of claim 18, wherein the request to perform at least one service is received at the service distribution system from the remote device via the Internet (see page 4, paragraph [0027], *the monitoring agent is also fitted with means for getting a connection to service providers on the internet network, and particularly to one conformity server and see page 5, paragraphs [0037], local agent prepares a request for a transaction, which is then transmitted to monitoring server*).

As to claim 25, Cheng further teaches the method of claim 18, wherein performing the at least one initial service comprises transmitting at least one software package to the local device (see Abstract, which describes how the selected updates are downloaded from the software vendor computer systems and installed on the client computers).

As to claim 26, Brebner teaches a method, comprising:

establishing a connection with a remote device (see page 4, paragraph [0027], *the monitoring agent is also fitted with means for getting a connection to service providers on the internet network, and particularly to one conformity server*),

identifying hardware and software resources available on the remote device (see page 4, paragraph [0032], *software packages installed in the machine are analyzed; hardware data is extracted from the machine*), and

analyzing the hardware and software resources available on the remote device in relation to one or more services available on a service distribution system (see page 5, paragraph [0038]).

Brebner does not specifically teach displaying a list of services that would enhance the hardware and software resources available on the remote device. In an analogous art, however, Cheng is cited to teach displaying a list of services that would enhance the hardware and software resources available on the remote device (see column 14, line 66 and column 15, lines 1-4). ). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Brebner and Cheng in order to provide users with an easier way to identify which updates are available for their systems and to resolve the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see col.2 lines 18-21).

As to claim 27, Cheng further teaches the method of claim 26, wherein establishing a connection with the remote device further includes providing an interface that is publicly accessible over the Internet (see column 6, lines 25-28) and establishing a connection with a remote device via the interface (see column 3, lines 27-29).

As to claim 28, Brebner teaches the method of claim 26, wherein identifying hardware resources available on the remote device further includes:

analyzing whether the remote device has previously connected to the service distribution system:

if the remote device has previously connected to the service distribution system, identifying software resources available on the remote device (see page 5, paragraph [0038]), accessing a data structure including available hardware resources of the remote device (see page 4, paragraph [0029], *an internal system service is used for automatically gathering technical parameters regarding the user's PC and for storing them into a profile file*) and

if the remote device has not previously connected to the service distribution system, identifying software and hardware resources available on the remote device by receiving information specifying the software and hardware resources from the remote device (see page 5, paragraph [0038]). However, Brebner does not specifically teach analyzing whether the remote device has previously connected to the service distribution system. In an analogous art, Cheng teaches analyzing whether the remote device has previously connected to the service distribution system (see column 15, lines 37-41 and lines 60-62). It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Brebner and Cheng in order to provide users with an easier way for identifying which updates are available for their systems and resolving the technical difficulties in obtaining and installing the correct updates, as disclosed by Cheng (see column 2, lines 48-51).

As to claim 29, Cheng further teaches the method of claim 26, wherein analyzing the hardware resources available to the remote device in relation to a set of services available on the service distribution system further comprises eliminating services which would not be compatible with hardware resources available on the remote device and

determining if any of the non-eliminated services would enhance software resources on the remote device (see column 8, lines 29-31).

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brebner (EP1211596 A1) in view of Cheng (US Patent 6,151,643) as applied to claim 18 above, and further in view of Chiles (US Patent 6,167,567).

As to claim 20, Brebner in view of Cheng teaches the limitations of claim 18, but neither specifically teaches if the hardware resources available on the remote device were not fully identified, prompting a user of the remote device to manually input the hardware resources available on the remote device. In an analogous art, however, Chiles is cited to teach if the hardware resources available on the remote device were not fully identified, prompting a user of the remote device to manually input the hardware resources available on the remote device (see FIG.1, 3 and associated text, e.g. col.19 lines 50-54). It would have been obvious to combine the teachings of Brebner in view of Cheng with those of Chiles because Chiles provides users with a more efficient method of simplifying the task of maintaining client computers, particularly in terms of correctly updating their client software (see Chiles: col.3 lines 19-21).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENECA P. SMITH whose telephone number is



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(571)270-1651. The examiner can normally be reached on Monday-Friday 7:00-4:30 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CS/  
3/31/2008

/Tuan Q. Dam/  
Supervisory Patent Examiner, Art Unit 2192